

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PHYLLIS PRICE,

Plaintiff,

v.

U.S. DEPARTMENT OF EDUCATION,

Defendant

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Civil No. 14-3441

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant, the United States Department of Education (Department of Education), through the undersigned Assistant United States Attorney, files this Answer to Plaintiff's Original Complaint, on information and belief as follows:

The Department of Education denies each and every allegation contained in Plaintiff's Original Complaint, except as hereinafter expressly admitted, qualified or otherwise answered.

I. PARTIES

1. Defendant lacks knowledge or information sufficient to admit or deny the allegations in paragraph 1.
2. Admit
3. Admit
4. Admit

II. JURISDICTION AND VENUE

5. This paragraph sets forth Plaintiff's jurisdictional and venue allegations that present legal conclusions and questions of law to be determined solely by the Court, to which no answer is required. To the extent that an answer is required, Defendant denies.

6. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 6.

7. Defendant admits that the Plaintiff owes at minimum \$65,591.02 but denies that the foregoing amount is the total amount owed.

III. ADMINISTRATIVE REVIEW

8. Defendant admits the allegation in sentence 1 of paragraph 8. Defendant lacks knowledge or information sufficient to admit or deny the allegations in the remainder of paragraph 8.

9. Admit

10. Defendant lacks knowledge or information sufficient to admit or deny the allegations in the remainder of paragraph 10. To the extent a response is required, Defendant denies allegation in sentence 2 of paragraph 10.

11. Admit

12. Defendant admits the allegation in sentence 1 of paragraph 12. The remainder of the paragraph contains a statement of the case to which no response is required. To the extent a response is required, Defendant denies the allegations.

13. Defendant lacks knowledge or information sufficient to admit or deny the allegations in paragraph 13.

14. This paragraph contains a statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 14.

15. This paragraph contains statement of the case to which no response is required. To the extent a response is required, Defendant denies all allegations and legal conclusions in paragraph 15.

16. Defendant admits that the Department of Education issued a Garnishment Hearing Decision. The remainder of the paragraph contains statement of the case to which no response is required.
17. This paragraph sets forth legal conclusions and questions of law to be determined solely by the Court, to which no answer is required. Further, this paragraph constitutes the Plaintiff's request for relief to which no responsive pleading is necessary. To the extent that a responsive pleading is required, Defendant denies all allegations and legal conclusions in paragraph 17; and that Plaintiff is entitled to the relief sought in the complaint.
18. This paragraph sets forth legal conclusions and questions of law to be determined solely by the Court, to which no answer is required. To the extent that a responsive pleading is required, Defendant denies all allegations and legal conclusions in paragraph 18.
19. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 19.
20. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 20.
21. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 21.
22. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 22.
23. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 23.

24. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 24.

25. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 25.

26. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 26.

27. This paragraph contains statement of the case to which no response is required. To the extent a response is required; Defendant denies all allegations and legal conclusions in paragraph 27.

28. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 28.

29. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 29.

30. This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 30.

30. (sic) This paragraph contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 30 (sic).

31. This is the prayer for relief to which no response is needed. The paragraph also contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 31.

32. This is the prayer for relief to which no response is needed. The paragraph also contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 32.

33. This is the prayer for relief to which no response is needed. The paragraph also contains legal arguments to which no response is required. To the extent that an answer is required, Defendant denies every allegation and legal conclusion contained in paragraph 33.

AFFIRMATIVE DEFENSES

1. The Court lacks subject matter jurisdiction over some or all of Plaintiff's allegations.
2. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
3. Plaintiff failed to exhaust administrative remedies.
4. The Department of Education has, or may have, further and additional defenses which are not yet known, but which may become known through future discovery. The Department of Education asserts herein each and every affirmative defense as may be ascertained through future discovery, including those required by Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE, having fully answered Plaintiff's Original Complaint, Federal Defendant, the United States Department of Education, requests that this Complaint be dismissed with prejudice and that Federal Defendant be granted reasonable costs and for such other relief as this Court deems necessary and proper.

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Respectfully submitted,

KENNETH MAGIDSON
United States Attorney

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CERTIFICATE OF SERVICE

This will certify that the attached instrument was served on April 27, 2015, by the
electronic filing system on all attorneys of record.

s/ Charmaine Aarons Holder
Charmaine Aarons Holder
Assistant United States Attorney